

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

FORREST EDWARD HARRIS,

Plaintiff,

v.

CORIZON, LLC,

Defendant.

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No. 4:17cv02617 PLC

MEMORANDUM AND ORDER

This matter is before the Court on review of the record after remand, from the United States Court of Appeals for the Eighth Circuit, for this Court’s “calculation and collection of appellate filing fees pursuant to Henderson v. Norris, 129 F.3d 481 (8th Cir. 1997) [(per curiam)]” [ECF No. 67]. Plaintiff, who was self-represented and a pretrial detainee at the time he commenced this lawsuit, obtained leave to proceed in forma pauperis before this Court, which appointed counsel to represent him. The Court subsequently granted summary judgment and entered judgment in favor of Defendant [ECF Nos. 62 and 63], stating, in relevant part, that Plaintiff was “a Missouri prison inmate.”

Plaintiff filed a notice of appeal [ECF No. 64] from the judgment. Plaintiff did not, however, pay the \$505.00 filing and docketing fees (“filing fees”) for his appeal. Nor did Plaintiff file materials required to proceed in forma pauperis, such as an affidavit and “a certified copy of the trust fund account statement (or institutional equivalent) . . . for the 6-month period immediately preceding the filing of the . . . notice of appeal.” See 28 U.S.C. § 1915(a).

Section 1915, also referred to as the Prison Litigation Reform Act of 1995 (“PLRA”), requires a prisoner-appellant to pay the full amount of the filing fees for appeal. 28 U.S.C. §

1915(b)(1). Depending on the prisoner-appellant's financial circumstances, a court may collect the filing fees through installment payments made from a prison account. See Henderson, 129 F.3d at 483-84; 28 U.S.C. §§ 1915(b)(1) and 1915(b)(2). Importantly, the calculation of the amount of the payments required of a prisoner-appellant under Section 1915 requires "the availability of the certification of a prisoner-appellant's prison account." Henderson, 129 F.3d at 484. Because the record did not contain the required affidavit and certification of Plaintiff's prison account, the Court entered an Order [ECF No. 69] giving Plaintiff twenty days to either: (1) pay the filing fees or (2) file an affidavit and "a certified copy of [Plaintiff's] trust fund account statement (or institutional equivalent) . . . for the 6-month period immediately preceding the filing of [his] notice of appeal, obtained from the appropriate official of each prison at which [Plaintiff] is or was confined," as required by 28 U.S.C. § 1915(a)(2). Plaintiff did not timely respond to that Order and did not seek more time in which to file his response.

After entry of this Court's Order, the Eighth Circuit entered an Order [see ECF No. 70] in Plaintiff's appeal directing Plaintiff to show cause why the appeal should not be dismissed for Plaintiff's failure timely to file his brief. After Plaintiff responded to the show cause order, the Eighth Circuit [see ECF No. 71] extended the time for Plaintiff to submit a brief on appeal while observing: (1) Plaintiff stated that he did not "know what happened to [his] lawyer" and (2) Plaintiff was "not appointed an attorney on appeal." Because this Court's earlier Order was mailed to Plaintiff's counsel and counsel does not represent Plaintiff with respect to his appeal, this Court extends the time for Plaintiff personally to either pay the filing fees for his appeal or file the materials necessary for this Court's consideration of Plaintiff's payment of the fees for his appeal through installment payments from his institutional account.

Accordingly, after careful consideration,

IT IS HEREBY ORDERED that Plaintiff shall, within twenty days after the date of this Order, (1) pay the \$505.00 in filing fees for his appeal or (2) file an affidavit complying with 28 U.S.C. § 1915(a)(1), as well as “a certified copy of [Plaintiff’s] trust fund account statement (or institutional equivalent) . . . for the 6-month period immediately preceding the filing of [his] . . . notice of appeal, obtained from the appropriate official of each prison at which [Plaintiff] is or was confined,” as required by 28 U.S.C. § 1915(a)(2).

IT IS FURTHER ORDERED that any payment toward Plaintiff’s appellate filing fees shall be made to the Clerk of this Court by a check or money order made payable to “Clerk of the United States District Court.”

IT IS FINALLY ORDERED that the Clerk of the Court shall mail a copy of this Order to Plaintiff at the: Eastern Reception Diagnostic and Correctional Center, 2727 Highway K, Bonne Terre, MO 63628.



PATRICIA L. COHEN
UNITED STATES MAGISTRATE JUDGE

Dated this 31st day of December, 2020.